

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 5/15/2025

THE LAW FIRM OF

CÉSAR DE CASTRO, P.C.

ATTORNEY AT LAW

NEW YORK, NEW YORK 10007
631.460.3951 Office
646.285.2077 Mobile
646.839.2682 Fax
cdecastro@cdecastrolaw.com
cdecastrolaw.com

May 14, 2025

Via ECF

The Honorable Analisa Torres
United States District Judge
U.S. District Court for the Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *United States v. Brian Kolfage*, 20 Cr. 412 (AT)

Dear Judge Torres,

On May 6, 2025, the government, the Bureau of Prisons (“BOP”), and the defendant moved this Court to modify Mr. Kolfage’s sentence to time-served based on his deteriorated health despite being in a BOP federal medical center. *See* ECF No. 449. We write to update the Court and explain how Mr. Kolfage’s condition has worsened just in the past eight days since the government filed its motion and, as each day passes, he suffers more.

As the Court may recall, Mr. Kolfage is the most severely wounded airman to survive any war. In Iraq on September 11, 2004, a rocket landed three feet away from him changing his life forever. He lost three limbs and suffered debilitating injuries to his remaining limb. After dozens of surgeries, years of rehabilitation, cutting edge mobility aids, a home specially built that allows for him to live with as minimal assistance as possible, and daily medications including narcotics to manage his pain, Mr. Kolfage still requires substantial daily care to perform his daily activities.

Mr. Kolfage requires around the clock care. The BOP has conceded, in its motion, that it cannot adequately care for him, and that he needs to be released. That is why the BOP has worked to prepare and has already approved a release plan that will enable Mr. Kolfage to receive the necessary medical care after his release. At sentencing, the defense argued that the BOP could not adequately care for Mr. Kolfage, but the Court and the government were provided assurances by the BOP that it could. In its sentencing memorandum, the government attached a letter from Dr. Dianne Sommer, a Regional Medical Director with the BOP, dated April 4, 2023, in which she explained that “the BOP will be able to provide appropriate care for Mr. Kolfage once committed to the custody of the BOP.” Unfortunately for Mr. Kolfage, the BOP failed, but to its

credit, has acknowledged as much and has affirmatively moved to release him and help alleviate his continued suffering.

Furthermore, at or about the time the government filed its motion last week, the BOP moved Mr. Kolfage out of the hospital portion of the building in which he was imprisoned, to another part of the facility that does not have any medical staff during the evening and overnight. That has resulted in Mr. Kolfage being deprived of his necessary pain medications, which are essential to alleviate the excruciating pain he suffers daily. One of Mr. Kolfage's BOP treating physicians informed Mr. Kolfage that he was moved against the physician's orders for unknown reasons.

Accordingly, we respectfully request that the Court immediately grant the government and BOP's motion (joined by the defense) for Mr. Kolfage's sentence to be modified to time-served to permit him to receive the necessary medical care.

Respectfully submitted,

/s/

César de Castro
David DeStefano

By **May 22, 2025**, the Bureau of Prisons ("BOP") shall respond to Mr. Kolfage's letter dated May 14, 2025. ECF No. 450. The BOP's response shall address, *inter alia*, (1) why Mr. Kolfage was moved "out of the hospital portion of the building in which he was imprisoned, to another part of the facility that does not have any medical staff during the evening and overnight," *id.* at 2, and (2) what Mr. Kolfage's current medical needs are.

The Clerk of Court is respectfully directed to terminate the letter motion at ECF No. 450.

SO ORDERED.

Dated: May 15, 2025
New York, New York



ANALISA TORRES
United States District Judge